APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/534,461	03/24/2000	Amir Abolfathi	09943-100001	3302

7590   08/14/2002

JAMES M. HESLIN, EQS.
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA   94111-3834

EXAMINER
FRENEL, VANEL

ART UNIT	PAPER NUMBER
3626	

DATE MAILED: 08/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

-- Th MAILING DATE of this communication appears on the cov r she t with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _24 March 2000_ .

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-24_ is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-24_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

   If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____ .

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
       application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

   a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)   4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5) ☐ Notice of Informal Patent Application (PTO-152)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6) ☐ Other:

DETAILED ACTION

Notice to Applicant

1.   This communication is in response to the application filed March 2000. Claims 1-24 are

pending.

Drawings

2.   ***This application has been filed with informal drawings which are acceptable for***

examination purposes only. Formal drawings will be required when the application is

allowed.

Objections

3.   The numbering of claims is not in accordance with 37 CFR 1.126 which requires the

original numbering of the claims to be preserved throughout the prosecution. When claims are

canceled, the remaining claims must not be renumbered. When new claims are presented, they

must be numbered consecutively beginning with the number next following the highest numbered

claims previously presented (whether entered or not).

Misnumbered claims 14-17 (first instance) have been renumbered as claims 13-16,

respectively, as it appears that Applicant inadvertently skipped the number 13 in the original

numbering of claims.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) do not apply to the examination of this application as the application being examined was not

(1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b).

Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA

(pre-AIPA 35 U.S.C. 102(e)).

5.   Claims 1 and 3-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Joao

(6,283,761) .

(A)   As per claim 1, Joao discloses a virtual health-care electronic commerce community,

comprising:

a network to communicate information relating to the community (Col.18, lines 50-65;

Col.20, lines 40-50);

one or more patients coupled to the network (Col.14, lines 13-67 to Col.15, line 17; Col.20,

lines 13-67);

one or more treating professionals coupled to the network (Col.13, lines 52-67 to Col.14, line

58); and

a server coupled to the network, the server storing data for each patient and performing

patient data visualization in response to a user request (Col.14, lines 49-67; Col.15, lines 1-67 to

Col.16, lines 65).

(B)   As per claim 3, Joao discloses the community wherein the treating professionals include

dentists or orthodontists (Col.17, lines 25-30).

(C)   As per claim 4, Joao discloses the community further comprising one or more partners

coupled to the network, such as insurance companies (Col.17, line 62 to Col.18, line 49).

(D)   As per claim 5, Joao discloses the community wherein the partners include a financing

partner such as financial account information (Col.17, line 18 ; Col.18, line 12).

(E)   As per claim 6, Joao discloses the community wherein the partners include a supplier

(Col.19, lines 54-64).

(F)   As per claim 7, Joao discloses the community wherein the partners include a delivery

company such as any other third party and/or intermediary who or which acts on behalf of another

and/or assists in to providing of healthcare and/or related servcices (Col.12, lines 41-43; Col.24, line

55-62).

(G)   As per claim 8, Joao discloses the community wherein the treating professionals perform

office management operations using the server (Col.12, lines 18-67 to Col.13, line 37).

(H)   As per claim 9, Joao discloses the community wherein the office management operations

include one or more of the following : patient scheduling, patient accounting, and claim processing

(Col.24, lines 21-48).

(I)   As per claim 10, Joao discloses the community wherein the patients and the treating

professionals access the server using browsers (Col.40, lines 13-67 to Col.41, line 32).

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section
> 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that
> the subject matter as a whole would have been obvious at the time the invention was made to a person having
> ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner
> in which the invention was made.

7.   Claims 2-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao (6283761)

in view of Andreiko et al (5,683,243).

(A)   As per claim 2, Joao does not disclose the community wherein the treating professional

views one or more of the following patient data visualization over the network : a right buccal view;

a left buccal view; a posterior view; an anterior view;; a maxillary occlusal view; an overjet view; a

left distal molar view; a left distal molar view; a left lingual view; a lingual incisor view; a right lingual

view; a right distal molar view; an upper jaw view; and a lower jaw view.

However, this feature is known in the art, as evidenced by Andreiko. In particular, Andreiko teaches a mandibular occlusal view (See Andreiko Col.1, lines 33-65; Col.15, lines 19-55).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Andreiko within Joao's apparatus and the method for providing healthcare information with the motivation of a custom orthodontic appliance which fabricated under the control of a computer directly from data from the teeth and/or jaw of a patient or a model thereof. The appliance so formed, when connected to the teeth of the patient to precise calculated finish positions without the need for the orthodontist to bend archwires over the course of the treatment. As a result, the orthodontist's time is conserved, the treatment of the patient is achieved in a shorter amount of time and the finish positions of the teeth are more nearly ideal (See Andreiko Col.6, lines 20-30).

(B)   As per claim 11, Joao discloses a computer-implemented method for performing dental-related electronic commerce (Col.17, lines 25-67), comprising:

transmitting teeth data associated a patient from a dental server to a treating professional computer over the Internet upon an authorized request (Col.17, lines 25-67);

transmitting the computer model from the treating professional computer server (Col.14, lines 49-67; Col.15, line 67; Col.20, lines 40-67); and

generating an appliance to treat the patient based on the computer model of the teeth (Col.17, lines 25-61).

Joao does not explicitly disclose displaying a three-dimensional computer model of the teeth

at the treating professional computer using a browser; allowing a treating professional to manipulate

the three-dimensional computer model of the teeth using the browser . However, this feature is

known in the art, as evidenced by Andreiko. In particular, Andreiko teaches displaying a three-

dimensional computer model of the teeth at the treating professional computer using a browser ;

allowing a treating professional to manipulate the three-dimensional computer model of the teeth

using the browser (Col.15, lines 22-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to

have included the feature of Andreiko within the Joao's apparatus and method for providing

healthcare information with the motivation of a custom orthodontic appliance which fabricated under

the control of a computer directly from data from the teeth and/or jaw of a patient or a model

thereof. The appliance so formed, when connected to the teeth of the patient to precise calculated

finish positions without the need for the orthodontist to bend archwires over the course of the

treatment. As a result, the orthodontist's time is conserved, the treatment of the patient is achieved

in a shorter amount of time and the finish positions of the teeth are more nearly ideal (Col.6, lines 20-

30).

(C)   As per claim 12, Joao discloses the method further comprising providing financing options

for the patient using one or more financing partners (Col.16, lines 33-67; Col.17, lines 62-67 to

Col.18, line 49).

(D)   As per claim 13, Joao discloses the method further comprising offering an on-line shop geared to the patient's dental requirements (Col.5, lines 2-6).

(E)   As per claim 14, Joao discloses the method further comprising providing office management utilities for the treating professional (Col.12, lines 18-67 to Col.13, line 37).

(F)   As per claim 15, Joao discloses the method wherein the office management utilities include one or more of the following : patient scheduling, patient accounting, and claim processing (Col.12, lines 18-67 to Col.13, line 37).

(G)   As per claim 16, Jordan discloses the method wherein allowing a treating professional to manipulate the three-dimensional computer model of the teeth using the browser further comprises displaying a plurality of dental views (Col.15, lines 22-67).

(H)   As per claim 17, Joao fails to disclose the method wherein the dental views include one or more of the following : a right buccal view; a left buccal view; a posterior view; an anterior view; a mandibular occlusal view; a maxillary occlusal view; an overjet view; a left distal molar view; a left distal molar view; a left lingual view; a lingual incisor view; a right lingual view; a right distal molar view; an upper jaw view; and a lower jaw view.

However, this feature is known in the art, as evidenced by Andreiko. In particular, Andreiko teaches a mandibular occlusal view (See Andreiko Col.1, lines 33-65; Col.15, lines 19-55).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Andreiko within Joao's apparatus and the method for providing healthcare information with the motivation of a custom orthodontic appliance which fabricated

under the control of a computer directly from data from the teeth and/or jaw of a patient or a model

thereof. The appliance so formed, when connected to the teeth of the patient to precise calculated

finish positions without the need for the orthodontist to bend archwires over the course of the

treatment. As a result, the orthodontist's time is conserved, the treatment of the patient is achieved

in a shorter amount of time and the finish positions of the teeth are more nearly ideal (See Andreiko

Col.6, lines 20-30).

(I)   As per claim 18, Andreiko discloses the method wherein allowing a treating professional to

manipulate the three-dimensional computer model of the teeth using the browser further comprises

clicking on a tooth to adjust its position (Col.15, lines 22-67).

The motivation for combining the respective teachings of Joao and Andreiko are as discussed

above in the rejection of claim 11, and incorporated herein.

(J)   As per claim 19, Andreiko discloses the method further comprising displaying x, y and z axis

to allow the treating professional to adjust the position of the tooth (Col.49, lines 1-38).

The motivation for combining the respective teachings of Joao and Andreiko are as discussed

above in the rejection of claim 11, and incorporated herein.

(K)   As per claim 20, Andreiko discloses the method further comprising providing supplemental

services to the patient, including teeth whitening services (Col.39, lines 35-47).

The motivation for combining the respective teachings of Joao and Andreiko are as discussed

above in the rejection of claim 11, and incorporated herein.

(L)   As per claim 21, Joao discloses a server to support a health-care electronic commerce community with one or more patients and one or more service providers (Col.13, lines 29-67 to Col.14, line 67 to Col.15, lines 1-67), comprising:

a processor adapted to communicate with a network (Col.15, lines 6-67 to Col.16, lines 1-18);

a data storage device coupled to the processor and adapted to store data for each patient (Col.19, lines 65-67 to Col.20, line 8). Joao does not explicitly disclose a software to communicate 3 D patient data in response to a client request. However, this feature is known in the art, as evidenced by Andreiko. In particular, Andreiko teaches a software to communicate 3 D patient data in response to a client request (Col.39, lines 1-15; Col.65, lines 21-67; Col.67, lines 7-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Andreiko within the Joao's apparatus and method for processing and/or for providing healthcare information with the motivation of a custom orthodontic appliance which fabricated under the control of a computer directly from data from the teeth and/or jaw of a patient or a model thereof. The appliance so formed, when connected to the teeth of the patient to precise calculated finish positions without the need for the orthodontist to bend archwires over the course of the treatment. As a result, the orthodontist's time is conserved, the treatment of the patient is achieved in a shorter amount of time and the finish positions of the teeth are more nearly ideal (See Andreiko Col.6, lines 20-30).

(M)   As per claim 22, Joao and Andreiko do not disclose the server further comprising a browser adapted to receive the client request and transmitting the request to the server.

However, Joao clearly teaches utilizing the Internet and /or the World Wide Web to embody his system (See Joao, Col.3, line 53 to Col.4, line 5).

It is well known in the art that browsers are required to receive and transmit data over the Internet and/or the World Wide Web, (Col.3, line 53 to Col.4, line 5) and the Examiner takes Official Notice of browsers for such purposes.

One having ordinary skill in the art at the time of the invention would have found it obvious to incorporate a browser with the system taught collectively by Joao and Andreiko with the motivation of providing easy-to-use and readily available access to the Internet and the World Wide Web, as suggested by Joao (Col.3, line 53 to Col.4, line 5 of Joao).

(N)   As per claim 23, Andreiko discloses the server wherein the browser further comprises plug-in to visualize patient data in 3 D (Col.39, lines 1-67).

The motivation for combining the respective teachings of Joao and Andreiko are as discussed above in the rejection of claim 21, and incorporated herein.

(O)   As per claim 24, Andreiko discloses the server wherein the providers service one or more of the following health-care applications : dentistry applications, cosmetic augmentation, hair-care enhancements, liposuction, plastic or reconstructive surgery (Col.40, lines 11-55).

The motivation for combining the respective teachings of Joao and Andreiko are as discussed above in the rejection of claim 21, and incorporated herein.

Conclusion

7.   Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Vanel Frenel whose telephone number is (703)-305 4952 .The examiner can

be reached on Monday through Thursday from 6:30 to 5:00 pm .

If attempts to reach the examiner by telephone are unsuccessful, the examiner 's supervisor,

Joseph Thomas can be reached on (703)-305 -9643.

Any inquiry of general nature or relating to the status of this application or proceeding

should be directed to the Receptionist whose telephone number (703) 308-1113.

Any response to this action should be mailed to:

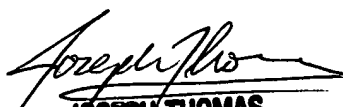**Commissioner of Patents and Trademarks**

Washington D.C. 20231

OR faxed to:

(703) 305-7687	(Official Communications; including
	After Final Communications labeled
	"Box AF")
(703) 746-6065	(Informal / Draft Communications, labeled
	"PROPOSED" or " DRAFT")

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington,

VA., 7th Floor (Receptionist).

VF/

JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

July 25, 2002